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SFC bans Samuel Lee Kwok Tung for eight months

19 Aug 2019

The Securities and Futures Commission (SFC) has banned Mr Samuel Lee Kwok Tung, a former account executive of DBS Vickers (Hong Kong) Limited (DBSVHK), from re-entering the industry for eight months from 17 August 2019 to 16 April 2020 (Note 1).

The disciplinary action follows an SFC investigation which found that Lee falsely stated that he was the client when confirming orders or acknowledging executed orders after placing such orders for a client via the telephone in 84 transactions between April 2015 and November 2015. As a result, the telephone records of DBSVHK gave the appearance that the trade instructions came directly from the client and that the trades had been confirmed with the client personally.

The SFC considers that Lee's dishonest act by falsely claiming to be the client called into question his fitness and properness to be a regulated person.

In deciding the penalty, the SFC took into account all relevant circumstances, including Lee's otherwise clean disciplinary record.

End

Note:

1. Lee was licensed under the Securities and Futures Ordinance to carry on business in Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities and was accredited to DBSVHK between 24 May 2004 and 29 January 2016. Lee is currently not licensed by the SFC.

[A copy of the Statement of Disciplinary Action is available on the SFC website](#)

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STATEMENT OF DISCIPLINARY ACTION

The disciplinary action

1. The Securities and Futures Commission (**SFC**) has prohibited Mr Lee Kwok Tung Samuel (**Lee**)¹ from re-entering the industry for 8 months, from 17 August 2019 to 16 April 2020, pursuant to section 194 of the Securities and Futures Ordinance (**SFO**).
2. The SFC found that when placing trade orders for a client's account via the telephone, Lee stated that he was the client (**Client**). The telephone records therefore gave the appearance that the trade instructions came directly from the Client and that the trades had been confirmed with the Client personally.
3. Lee's conduct was in breach of General Principle 1 (Honesty and fairness) of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (**Code of Conduct**).

Summary of facts

4. Lee was a licensed representative of DBSVHK between 24 May 2004 and 29 January 2016.
5. On 7 November 2014, the Client opened a securities account (**Account**) at DBSVHK. Lee was the Client's account executive, responsible for handling the Account during the period from 7 November 2014 to 29 January 2016. Lee had a sales assistant (**Sales Assistant**) who handled matters relating to the Account.
6. During the period from 8 April 2015 to 16 November 2015, a total of 84 transactions were conducted in the Account on 16 trading days. These trades were carried out in the following manner:
 - (a) Lee would call the Sales Assistant in Cantonese and provided the order details to be executed on behalf of the Client.
 - (b) Lee would then make a second call to the Sales Assistant, stating in English that he was the Client. The Sales Assistant would advise the Client (who was in fact Lee) that she had received the orders from Lee and would execute them accordingly. Upon receipt of the call from the Client (who was in fact Lee), the Sales Assistant would send the orders to market.
 - (c) Prior to day-end, Lee would place another call to the Sales Assistant, again stating in English that he was the Client. The Sales Assistant would then tell the Client (who was in fact Lee) that his instructions had

¹ Lee was licensed under the SFO to carry on business in Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities and was accredited to DBS Vickers (Hong Kong) Limited (**DBSVHK**) between 24 May 2004 and 29 January 2016. Lee is currently not licensed by the SFC.

been executed and that the contract notes would be sent to him via email later after market close.

7. Lee made the statement that he was the Client to the Sales Assistant in a recorded call as Lee knew DBSVHK required him to telephone record trade instructions originated from the clients and trade confirmations made to clients.

Breaches and reasons for action

8. Section 129 of the SFO provides that, in considering whether a person is fit and proper, the SFC shall have regard to, in addition to any other matter that the SFC may consider relevant, the person's ability to carry on the regulated activity competently, honestly and fairly, and the reputation, character, reliability and financial integrity of the person.
9. General Principle 1 of the Code of Conduct requires a licensed or registered person to act honestly, fairly, and in the best interests of its clients and the integrity of the market, in conducting its business activities.
10. Having considered all the circumstances, the SFC is of the view that Lee had acted dishonestly by making the false statement that he was the Client, in breach of General Principle 1 (Honesty and fairness) of the Code of Conduct.
11. Telephone recording of client orders and trade confirmation is an integral part of the audit trails which licensed corporations are required to maintain and ensures that there is reliable evidence to resort to when assessing any disputes between a licensed corporation and its client concerning the particulars of a trade order. Such recording therefore helps to facilitate the resolution of any trade disputes. It is also an effective compliance monitoring tool for the management of licensed corporations to prevent or detect any irregularities or fraudulent activities. The telephone recording requirements therefore protect the interests of the licensed representative, the licensed corporation and its clients.
12. Instead of asking the Client to call the Sales Assistant to confirm the orders or to acknowledge the executed orders, Lee made the calls to the Sales Assistant, speaking in a different language and specifically and clearly stating that he was the Client. Lee's misconduct might have the effect of misleading DBSVHK's management so that the lack of proper order records for the trades in the Account could not be easily detected. Lee also prevented DBSVHK from monitoring the Client's trade activities properly.

Conclusion

13. The SFC has decided that a prohibition of eight (8) months is appropriate and commensurate with the SFC's view on the gravity of Lee's conduct. In coming to the decision to take disciplinary action against Lee, the SFC has taken into account all relevant circumstances, including that:
 - (a) Lee's misconduct related to a total of 84 transactions spread out over seven months;

- (b) there is no evidence that Lee obtained any personal gain as a result of his misconduct;
- (c) Lee had more than 12 years of experience in the industry at the time of his misconduct; and
- (d) Lee has no disciplinary record with the SFC.